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11
 12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
 13 OF THE STATE OF CALIFORNIA

In the Matter of:)	FILE NO.: 96DBO-109316 and 963-2116
)	
)	
THE COMMISSIONER OF FINANCIAL)	
PROTECTION AND INNOVATION,)	
)	NOTICE AND SUMMARY OF FINDINGS
)	PURSUANT TO FINANCIAL CODE
Complainant,)	SECTION 17621
)	
v.)	
)	
FOUNTAIN VALLEY ESCROW, INC.,)	
INTEGRITY ESCROW, INC.,)	
)	
Respondents.)	

25 TO: FOUNTAIN VALLEY ESCROW, INC.
 26 17155 Newhope Street, Suite N
 27 Fountain Valley, California 92708
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INTEGRITY ESCROW, INC.
17155 Newhope Street, Suite N
Fountain Valley, California 92708

CITY NATIONAL BANK
555 South Flower Street 19th Floor
Los Angeles, California 90071

PLEASE TAKE NOTICE that the Commissioner of Financial Protection and Innovation (Commissioner) finds that:

1. Tom Quyen Nguyen, also known as Toan Quyen Nguyen, (Nguyen) is the sole owner of Fountain Valley Escrow, Inc. (FVE), formerly known as Integrity II Escrow, Inc. Nguyen and Tuan Ho each have 50% ownership in Integrity Escrow, Inc. (IE), which Nguyen also manages.

2. Both FVE and IE are licensed as escrow agents under the California Escrow Law (Escrow Law) (Fin. Code, § 17000 et seq.), with license numbers 96DBO-109316 and 963-2116, respectively. Both are also located at 17155 Newhope Street, Suite N, Fountain Valley, California 92708.

3. The Department of Financial Protection and Innovation (Department) commenced a special examination of FVE on November 21, 2023, after the company disclosed an alleged wire hack. That special examination resulted in the findings below.

4. On August 30, 2022, unknown actor(s), without authorization from FVE, submitted five wire transfers, totaling \$1,912,902.20, from FVE’s trust account with City National Bank (CNB) to external bank accounts belonging to individuals purportedly with no connection to FVE or its business.

5. The total amount wired out of FVE’s trust account was \$1,912,902.20. CNB was able to recover \$1,432,266.32. The list of funds transferred out of FVE’s trust account is as follows:

<u>Date of Transfer</u>	<u>Amount</u>	<u>Beneficiary Bank</u>	<u>Beneficiary Party</u>
8/30/2022	\$ 400,500.75	Wells Fargo Bank	Laura Gates
8/30/2022	\$473,700.60	Wells Fargo Bank	Laura Gates
8/30/2022	\$495,200.45	Wells Fargo Bank	Laura Gates
8/30/2022	\$498,500.40	Wells Fargo Bank	Linda King
8/30/2022	\$45,000.00	Navy Federal Credit Union	Barbara Scherff
Total	<u>\$1,912,902.20</u>		

1 6. The unauthorized wire transfers above resulted in a trust account shortage for FVE.
2 As of today, FVE’s trust account shows a shortage of \$480,635.88.

3 7. As of October 31, 2023, FVE has failed to meet the tangible net worth requirement
4 mandated by section 17210 of the Financial Code, wherein all escrow licensees are required to
5 maintain, at all times, a tangible net worth of at least \$50,000.00. FVE maintains two bank accounts,
6 a general account, and a trust account. The special examination found that following the
7 unauthorized wire transfers, the total bank balance between FVE’s trust and general accounts was
8 approximately \$439,242.00 and \$15,440.61 respectively, as of February 29, 2024. As of October 31,
9 2023, FVE had a tangible net worth deficiency of \$13,017.54.

10 8. FVE failed to maintain its books and records in accordance with the Escrow Law in
11 that it failed to maintain current financial statements and general ledgers for the general bank
12 account, in violation of California Code of Regulations, title 10, section 1732.3. The general ledger
13 and financial statements should have been posted and prepared up through November 30, 2023.

14 9. Upon inquiry by the Department, Nguyen reported that on or before August 30, 2022,
15 he, an FVE employee, or both fell victim to phishing attempts by way of electronic mail. Nguyen
16 claimed as a result, unknown actor(s) gained access to FVE’s business operation system, including
17 the company’s phone number and email addresses. Nguyen represented that the actor(s) prevented
18 FVE staff from receiving any incoming calls and rerouted emails from CNB, preventing FVE from
19 receiving any notifications about the unauthorized wire transfers. He reported that shortly thereafter,
20 CNB informed FVE that five wires from FVE’s trust account were initiated and processed.

21 10. On August 30, 2022—the same day as the wire hack—and to ameliorate the shortage
22 in the trust fund account for FVE, IE authorized a transfer of \$500,000 from its own trust account to
23 FVE’s. This transfer was not authorized by any authorized escrow instructions, and the funds
24 belonged to clients of IE. As a result of this transfer, IE experienced its own trust account shortage of
25 \$500,000 from August 30, 2022, through February 13, 2024.

26 11. Nguyen represented that in or around November 2023, FVE reported the wire hack to
27 the Escrow Agent Fidelity Corporation (EAFC). He further claims that EAFC declined to cover the
28 trust shortage in FVE’s trust account because FVE’s policy with EAFC only covered employee theft.

1 12. FVE also filed a claim with its insurance company concerning the wire hack to
2 determine whether FVE could be reimbursed for the lost funds. The insurance claim specialist for
3 FVE stated that because FVE's policy does not cover actual loss, the insurance company paid only
4 \$38,423.75 directly to the privacy counsel for and the forensic investigation into the wire hack.

5 13. Nguyen claimed that after the August 30, 2022, wire hack, FVE opened a new trust
6 account, though he did not elaborate on the purpose for doing so.

7 14. On November 30, 2023, the Department emailed a demand letter to Nguyen and FVE,
8 to replenish FVE's current trust account and provide proof of the new trust account for FVE. The
9 next day, Nguyen responded, claiming that FVE is not in a position to replenish the trust account; no
10 escrow accounts were compromised or otherwise impacted as a result of the August 30, 2022, wire
11 hack; and he was exploring a plan to replenish FVE's trust account with funds from its general
12 account, beginning with \$5,000.00 per month. He also failed to provide the requested proof.

13 15. On December 11, 2023, the Department sent a follow-up demand letter, by way of
14 electronic and certified mail, to Nguyen and FVE to replenish FVE's current trust account and
15 provide proof of the new trust account for FVE. Again, Nguyen and FVE did neither.

16 16. On February 12, 2024, the Department emailed a demand letter to IE, informing IE
17 how the investigation of FVE showed that on August 30, 2022, the day of the wire hack, IE
18 transferred \$500,000 from the IE trust account to the FVE trust account. FVE and IE have complied
19 with the demand letter and the \$500,000 has been transferred back to IE.

20 17. On March 21, 2024, Nguyen informed the Department that FVE has closed down its
21 business at 17155 Newhope Street, Suite N, Fountain Valley, California 92708, but its escrow agent
22 license remains. IE maintains an inactive escrow license with the Department.

23 18. The Department has received multiple complaints against FVE following the hack.
24 One of the complaints involved three escrows with balances each due to a different buyer as
25 described below. FVE has informed the buyers and their real estate agents about the hack, the funds
26 shortage in FVE's trust account, and the plan for FVE to cease operations. The complaint remains
27 unresolved because FVE does not have the funds to issue refunds.

28 a. Escrow #1 – initial deposit of \$27,1500.00

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- b. Escrow #2 – initial deposit \$19,100.00
- c. Escrow #3 – initial deposit \$10,000.00

19. Financial Code section 17621 provides, in pertinent part:

Whenever it appears to the Commissioner that any escrow agent subject to this division:

- (a) Is in an insolvent condition;
- (b) Is conducting escrow business in an unsafe and unauthorized manner;
- (c) Has violated its charter or any law of the State of California
- ...
- (h) Has permitted its tangible net worth to be lower than the minimum required by law;
- ...

the commissioner shall dispatch a written notice and summary of findings, as referred to in Section 17415, to the principal officer of the escrow agent involved or to its manager of record; and such escrow agent shall be afforded a reasonable opportunity to comply or otherwise effect such remedies as the commissioner may deem acceptable. However, should the escrow agent so notified fail to comply within five days of receipt of the notice, or as soon as it appears to the commissioner that no compliance is possible, or in the event prompt delivery of the prescribed written notice is impossible, the commissioner may forthwith take possession of the property and business of such escrow agent and retain possession until such escrow agent resumes business or its affairs be finally liquidated as provided in this chapter. The escrow agent, with the consent of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

20. Based upon the foregoing, the Commissioner finds that FVE:

- a. Knowingly kept funds belonging to non-clients in its trust account, in violation of Financial Code section 17411.
- b. Knowingly or recklessly disbursed or caused the disbursement of escrow funds otherwise than in accordance with escrow instructions, in violation of Financial Code 17414.
- c. Failed to maintain, at all times, a tangible net worth of \$50,000.00, in violation of Financial Code section 17210.
- d. Failed to maintain current financial statements and general ledgers for its escrow account, in violation of California Code of Regulations, title 10, section 1732.2.
- e. Failed to maintain current financial statements and general ledgers for the general

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- bank account, in violation of California Code of Regulations, title 10, section 1732.3.
 - f. Withdrew, paid out, or transferred funds from its trust account to other accounts otherwise than in accordance with escrow instructions of the principals to the escrow transaction or pursuant to order of a court of competent jurisdiction, in violation of California Code of Regulations, title 10, section 1738.
 - g. Withdrew, paid out, or transferred funds from its escrow account in excess of the amount to the credit of such account at the time of such withdrawal, payment, or transfer, in violation California Code of Regulations, title 10, section 1738.1.
21. Based upon the foregoing, the Commissioner also finds that IE:
- a. Knowingly caused funds belonging to non-clients to be kept in the trust account for FVE, in violation of Financial Code section 17411.
 - b. Knowingly or recklessly disbursed or caused the disbursement of escrow funds otherwise than in accordance with escrow instructions, in violation of Financial Code 17414.
 - c. Failed to maintain, at all times, a tangible net worth of \$50,000.00, in violation of Financial Code section 17210.
 - d. Withdrew, paid out, or transferred funds from its trust account to other accounts otherwise than in accordance with escrow instructions of the principals to the escrow transaction or pursuant to order of a court of competent jurisdiction, in violation of California Code of Regulations, title 10, section 1738.
 - e. Withdrew, paid out, or transferred funds from its escrow account in excess of the amount to the credit of such account at the time of such withdrawal, payment, or transfer, in violation California Code of Regulations, title 10, section 1738.1.

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22. Pursuant to Financial Code sections 17621 and 17630, it is necessary that a conservator be appointed as specified in the accompanying Order Appointing Kitlin Chan as Conservator Pursuant to Financial Code Section 17630.

Dated: May 10, 2024

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division